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10/756,773	01/14/2004	Tomoaki Endo	03500.013745.1	2334
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FITZPATRICK CELLA HARPER & SCINTO			WASHINGTON, JAMARES	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/756,773	ENDO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamares Washington	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 June 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 69-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 69-89 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892) ✓
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08) ✓  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

*Priority*

1. This application appears to be a division of Application No. 09383927, filed August 26, 1999. A later application for a distinct or independent invention, carved out of a pending application and disclosing and claiming only subject matter disclosed in an earlier or parent application is known as a divisional application or "division." The divisional application should set forth the portion of the earlier disclosure that is germane to the invention as claimed in the divisional application.

*Specification*

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 69-73, 75-83, and 85-89 are rejected under 35 U.S.C. 102(e) as being anticipated by Yousef R. Yacoub (US 6552813 B2).

Regarding claim 69, Yacoub discloses an information processing apparatus (Fig. 5 numeral 600 client station) for controlling via a communication medium (Fig. 5 numeral 650 network) a peripheral (Fig. 5 numeral 660 or 670, printers) that processes a job which executes a predetermined service, comprising:

an obtaining unit adapted to obtain (Fig. 5 numeral 610 virtual printer via numeral 620 network interface), via the communication medium (Fig. 5 network 650), function information that includes information indicating a job setting range executable by the peripheral (“Virtual printer 610 receives other data, from the server 680 or a database in client 600, such as the capabilities of the printers so that the virtual printer can find the most appropriate printer, one that complies with the user's print job preferences” at Col. 11 line 46); and

an inhibition unit adapted (Fig. 5 numeral 610 virtual printer), if a setting value of a job (i.e. color/grayscale/black and white capabilities at Col. 5 line 46) to be issued by said information processing apparatus is not included in the job setting range indicated by the function information obtained by said obtaining unit, to inhibit issuance of the job (Col. 5 lines

22-30 wherein only the appropriate printers according to the parameters set for the print job are found and ranked. This indicates all other printers not capable of performing the required functions will not be chosen to have the job issued.)

Regarding claim 70, Yacoub discloses an information processing apparatus according to claim 69, wherein the function information obtained by said obtaining unit includes information indicating a job attribute range executable by the peripheral (“... speed can be variable and have many values from which the user can choose, such as slow, slower, fast, fastest or medium” Col. 5 lines 15. This indicates a “range” of one of the attributes of the printer), and further comprising a display unit (Fig. 5 numeral 640 user interface) adapted to distinguishably display the job attribute range on a user interface (Col. 11 lines 25-28; as mentioned before the range of speed is an attribute that can be selected on the interface) provided in a control program (Can be a function of the operating system or implemented in software) for controlling the peripheral based on the obtained function information (Col. 11 line 31-36 wherein the preferences selected by the user are sent to the virtual printer which “controls” the “appropriate” printer to output the preferences selected).

Regarding claim 71, Yacoub discloses an information processing apparatus according to claim 69, wherein said obtaining unit obtains information indicating a function setting range executable by the peripheral (“... speed can be variable and have many values from which the user can choose, such as slow, slower, fast, fastest or medium” Col. 5 lines 15. This indicates a “range” of one of the attributes of the printer).

Regarding claim 72, Yacoub discloses an information processing apparatus according to claim 71, wherein the information indicating the function setting range is expressed with a combination of attributes for which a job setting is inhibited ("Virtual printer 610 receives other data, from the server 680 or a database in client 600, such as the capabilities of the printers so that the virtual printer can find the most appropriate printer, one that complies with the user's print job preferences" at Col. 11 line 46; Which, by default, indicates attributes of which the printer is not capable of performing).

Regarding claim 73, Yacoub discloses an information processing apparatus according to claim 69, wherein said obtaining unit obtains information indicating a function selectable in the peripheral ("Virtual printer 610 receives other data, from the server 680 or a database in client 600, such as the capabilities of the printers..." Col. 11 line 46).

Regarding claim 75, Yacoub discloses an information processing apparatus according to claim 69, wherein said obtaining unit obtains from the peripheral an attribute list indicating functions corresponding to one of a physical device control program, a logical device control program, a resource control program of the peripheral and a coordinate control program for coordination thereof ("Further, while some printers are capable of understanding one of the printer languages such as either Postscript or PCL but not both, a further print job preference may be the printer language which either the software/application used in generating the print

job" at Col. 8 line 26. Indicating an attribute sent to the "virtual printer" for making determinations can include the language supported by the peripheral which is readable on a logical device control program; Fig. 4 shows the layout of a typical office suite having both laser and inkjet printing devices, indicating information obtained from the peripheral devices will include the type of printer which would be controlled by the client station. Therefore, physical device control programs would need to be acquired in order to print from both laser and inkjet printers located in the office setting).

Regarding claim 76, Yacoub discloses an information processing apparatus according to claim 75, wherein the physical device control program includes at least one of a scanner control program that controls a scanner engine of the peripheral, a laser beam printer control program that controls a laser beam printer engine of the peripheral, and an ink jet printer control program that controls an ink jet printer engine of the peripheral (see rejection of claim 75; Suggesting laser and inkjet printers are controlled).

Regarding claim 77, Yacoub discloses an information processing apparatus according to claim 75, wherein the logical device control program includes at least one of a print job control program that controls a laser beam printer control program, a print job control program that controls an ink jet printer control program, a print job control program that controls the laser beam printer control program and the ink jet printer control program, a scan job control program that controls a scanner control program, a copy job control program that controls the scanner control program and the laser beam printer control program, and a copy job control program that

controls the scanner control program and the ink jet printer control program (see rejection of claim 75 wherein print job control programs (using either PCL or Postscript languages, for example) are utilized to control the laser and inkjet printers).

Regarding claim 78, Yacoub discloses an information processing apparatus according to claim 69, wherein said obtaining unit obtains the function information from the peripheral (Col. 5 lines 41-44 wherein the virtual printer will query...all printers present in ...an office suite...").

Regarding claim 79, Yacoub discloses an information processing method for controlling via a communication medium a peripheral that processes a job which executes a predetermined service (see rejection of claim 69; apparatus implementing the method), comprising the steps of:

obtaining, via the communication medium, function information that includes information indicating a job setting range executable by the peripheral (as rejected in claim 69); and

if a setting value of a job to be issued by the information processing apparatus is not included in the job setting range indicated by the function information obtained in said obtaining step, inhibiting issuance of the job (as rejected in claim 69).

Regarding claim 80, Yacoub discloses an information processing method according to Claim 79, wherein the function information obtained in said obtaining step includes information indicating a job attribute range executable by the peripheral, and said method further comprising the step of distinguishably displaying on a display unit the job attribute range on a user interface

provided in a control program for controlling the peripheral based on the obtained function information (see rejection of claim 70).

Regarding claim 81, Yacoub discloses an information processing method according to Claim 79, wherein said obtaining step includes obtaining information indicating a function setting range executable by the peripheral (see rejection of claim 71).

Regarding claim 82, Yacoub discloses an information processing method according to Claim 81, wherein the information indicating the function setting range is expressed with a combination of attributes for which a job setting is inhibited (see rejection of claim 72).

Regarding claim 83, Yacoub discloses an information processing method according to Claim 79, wherein said obtaining step includes obtaining information indicating a function selectable in the peripheral (see rejection of claim 73).

Regarding claim 85, Yacoub discloses an information processing method according to Claim 79, wherein said obtaining step includes obtaining from the peripheral an attribute list indicating functions corresponding to one of a physical device control program, a logical device control program, a resource control program of the peripheral and a coordinate control program for coordination thereof (see rejection of claim 75).

Regarding claim 86, Yacoub discloses an information processing method according to Claim 85, wherein the physical device control program includes at least one of a scanner control program that controls a scanner engine of the peripheral, a laser beam printer control program that controls a laser beam printer engine of the peripheral, and an ink jet printer control program that controls an ink jet printer engine of the peripheral (see rejection of claim 76).

Regarding claim 87, Yacoub discloses an information processing method according to Claim 85, wherein the logical device control program includes at least one of a print job control program that controls a laser beam printer control program, a print job control program that controls an ink jet primer control program, a print job control program that controls the laser beam primer control program and the ink jet printer control program, a scan job control program that controls a scanner control program, a copy job control program that controls the scanner control program and the laser beam printer control program, and a copy job control program that controls the scanner control program and the ink jet printer control program (see rejection of claim 77).

Regarding claim 88, Yacoub discloses an information processing method according to Claim 79, wherein said obtaining step includes obtaining the function information from the peripheral (see rejection of claim 78).

Regarding claim 89, Yacoub discloses a computer-readable storage medium, storing, in executable form, a program for causing an information processing apparatus to control via a

communication medium a peripheral that processes a job which executes a predetermined service; implementing the method as described in claim 79 above (Col. 11 lines 16-19 wherein the virtual printer can be a combination of software and hardware which includes a storage medium storing the program to implement the method as recited and rejected in claim 79).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 74 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoub in view of Shee-Yen Tan et al (US 5978560).

Regarding claim 74, Yacoub discloses an information processing apparatus according to claim 69, wherein said obtaining unit obtains from the peripheral an attribute list indicating functions of the peripheral ("Virtual printer 610 receives other data, from the server 680 or a database in client 600, such as the capabilities of the printers..." Col. 11 line 46).

Yacoub fails to disclose or suggest the obtaining unit obtains a value of an attribute by designating an ID of the attribute in the attribute list.

Tan et al, in the same field of endeavor of distributing job requests to peripheral devices according to retrieved attributes (Col. 1 lines 44-47, Tan et al), teaches obtaining a value of an

attribute by designating an ID of the attribute in the attribute list (Fig. 4 shows the attributes listed in the database 600 are each given an ID (MCJP, NJOD, NCJ...) which are provided a value (1, 5, 10...). These values are received by the supervisor to “load balance” print jobs described at Col. 5 lines 31-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made for the apparatus and method as disclosed by Yacoub wherein the obtaining unit obtains from a peripheral an attribute list indicating functions of the peripheral to utilize the teachings of Tan et al wherein a value of an attribute is obtained by designating an ID of the attribute in the attribute list to offer a more uniform indication of the capabilities of the peripheral devices.

Regarding claim 84, Yacoub discloses an information processing method according to Claim 79, wherein said obtaining step includes obtaining from the peripheral an attribute list indicating functions of the peripheral, and obtaining a value of an attribute by designating an ID of the attribute in the attribute list (see rejection of claim 74).

***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection

is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 69, 71-79, and 81-89 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3-13, 18, 20-30 and 35 of U.S. Patent No. 6717689 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 69 of the present application, claim 4 of the cited patent is an obvious variant of the claimed subject matter wherein the claimed obtaining unit and inhibition unit are represented by the function-identification obtainner and job restriction unit respectively.

Regarding claim 71 of the present application, claim 3 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 72 of the present application, claim 4 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 73 of the present application, claim 5 of the cited patent is an obvious variant of the claimed subject matter wherein “function choices” as disclosed in the cited patent would indicate a function selectable in the peripheral.

Regarding claim 74 of the present application, claim 6 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 75 of the present application, claim 7 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 76 of the present application, at least one of claims 8-10 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 77 of the present application, at least one of claims 11-13 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 78 of the present application, claim 6 of the cited patent indicates the function information is obtained from the peripheral and is an obvious variant of the claimed subject matter.

Regarding claim 79 of the present application, claim 20 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 81 of the present application, claim 20 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 82 of the present application, claim 21 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 83 of the present application, claim 22 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 84 of the present application, claim 23 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 85 of the present application, claim 24 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 86 of the present application, at least one of claims 25-27 of the cited patent is drawn to the same invention.

Regarding claim 87 of the present application, at least one of claims 28-30 of the cited patent is an obvious variant of the claimed subject matter.

Regarding claim 88 of the present application, claim 23 indicates the function information is obtained from the peripheral and is an obvious variant of the claimed subject matter..

Regarding claim 89 of the present application, claim 37 of the cited patent is an obvious variant of the claimed subject matter.

9. Claims 70 and 80 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6 and 20 of U.S. Patent No. 6717689 B1 in view of Yousef R. Yacoub (US 6552813 B2).

Regarding claim 70 of the present application, claim 3 of the cited patent is drawn to the same invention that is an information processing apparatus according to claim 69, wherein the function information obtained by said obtaining unit includes information indicating a job attribute range executable by the peripheral and further comprising a display unit with an interface provided in a control program for controlling the peripheral based on the obtained function information.

Patent 6717689 fails to disclose or suggest a display unit adapted to distinguishably display the job attribute range.

However, Yacoub, in the same field of endeavor, teaches distinguishably displaying a job attribute range (Col. 11 lines 25-28; as mentioned above, the range of speed is an attribute that can be selected on the interface).

It would have been obvious to one of ordinary skill in the art at the time the invention was made for the display as disclosed in Patent 6717689 to display a job attribute range as taught by Yacoub to alert the user of the capabilities of the peripheral device.

Regarding claim 80, discloses an information processing method according to Claim 79, wherein the function information obtained in said obtaining step includes information indicating a job attribute range executable by the peripheral (claim 20), and said method further comprising the step of distinguishably displaying on a display unit the job attribute range on a user interface

provided in a control program for controlling the peripheral based on the obtained function information (see rejection of claim 70).

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamaris Washington whose telephone number is (571) 270-1585. The examiner can normally be reached on Monday thru Friday: 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, King Poon can be reached on (571) 272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jamaris Washington  
Junior Examiner  
Art Unit 2625

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10/756,773  
Art Unit: 2625

Page 18

JW  
JW

February 13, 2006

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